

EU IMMIGRATION AND ASYLUM: ARE WE UP TO THE CHALLENGE?

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As the future and the strategic guidelines of Europe's migration policy for the post-Stockholm programme were on the agenda of the European Council on 27 June 2014, this Synthesis underlines the main elements discussed during the expert seminar organised by NE-JDI on 27 June 2014 in Paris on the future of the European immigration and asylum policy.

With the tragedy of Lampedusa in October 2013 ending with a tally of 366 migrants drowned and with an increasingly unstable geopolitical situation on Europe's doorstep, the heads of state and government met at the European Council on 27 June 2014 to discuss the future and the strategic guidelines of Europe's migration policy for the post-Stockholm agenda.

The Notre Europe - Jacques Delors Institute hosted a seminar of experts to mark the occasion, entitled "The future of the European immigration and asylum policy: is the European Council up to the challenge?".

The seminar was attended by António Vitorino, president of the Notre Europe - Jacques Delors Institute and European commissioner for justice and internal affairs from 1999 to 2004, Yves Pascouau, director of the European Policy Centre's "Migration and Diversity" programme, and Corinne Balleix, lecturer at the Paris-based Institut d'études politiques and the author of a policy paper entitled "Border control and the right of asylum: Where is the EU heading?"¹.



1. An overview of the current state of Europe's migration policy

António Vitorino observed that migrant-related issues once again played a central role in the debate ahead of the European elections in May 2014. In giving their vote to certain political groups, the Europeans showed that they believe the EU should boost its intervention in this field (or, on the contrary, forgo doing so).

Introducing the debate, Yves Pascouau pointed out that the European Union has only enjoyed jurisdiction in the field of migration policy for the past fifteen years and that it is thus a relatively young policy. Three five-year programmes have followed on from one another, providing a certain number of guidelines in the fields of asylum policy, visas and border management: the Tampere programme in 1999, the Hague programme in 2004, and the Stockholm programme in 2009 which is due to expire in December 2014. What conclusions can we draw regarding Europe's migration policy? In Yves Pascouau's view, EU immigration policy can be broken down into three major areas. The first, highly developed area concerns the management of external borders, visa policy and the struggle against illegal immigration. The second area, which has enjoyed fairly substantial development and harmonisation, concerns asylum and international protection on the basis of the Geneva Convention of 1951. And the third area, which concerns legal immigration and the definition of the rules governing entry and sojourn on European Union soil, is the area that has been least developed because member states have shown a certain reluctance to move forward together in this sphere.

In the view of Corinne Balleix, migration policy is seeking a dual balance: internally, among the member states, in order to achieve a better balance between solidarity and responsibility; and externally, between the EU and third countries, in order to ensure a better balance between powers of attraction and security. Before considering the specific nature of the post-Stockholm agenda, we will take a look at the crucial issues in Europe's migration policy strategy.

2. Mutual confidence, a precondition for strengthening external controls and eliminating internal controls

Corinne Balleix highlighted the fact that the need for a migration policy is all the more evident in view of the fact that the globalisation process is strengthening migration movements; and its effectiveness depends to a large extent on cooperation with other member states and with the migrants' countries of origin and of transit. The rationale governing an area for freedom of movement demands that we adopt a new principle for regional cooperation (Y. Pascouau). The aim is to eliminate internal border controls as much as possible in order to strengthen external border controls. If external border controls are faulty, then the danger is that we may see a revival of internal border controls (C. Balleix).

But the current picture between the different member states within the EU – the member states located on the Union's borders and those which are the migrant flows' ultimate target destination – is highly asymmetrical. After the tragedy of Lampedusa, Italy and Malta complained of a lack of European solidarity in connection with the cost of handling the migrant influx, calling for a review of the Dublin agreement (whereby a migrant can only apply for asylum in the member state in which he or she first lands, in order to avoid duplication in asylum applications) (C. Balleix).

Yet former commissioner for justice and internal affairs António Vitorino stressed that while the solidarity that certain member states are calling for may be legitimate, it is nonetheless influenced by compliance with legal obligations and by a responsible attitude toward the agreements that those member states have already signed. Greece has benefited

from accommodation infrastructure funds on more than one occasion over the past ten years but, as things stand today, those infrastructures no longer meet the minimum standards expected, so that one may question whether those funds have been properly managed. Italy and Greece are in breach of their EURODAC obligations and fail to register the personal data of those who enter their territory, which allows these countries, on the one hand, to shirk their responsibilities and the migrants, on the other, to apply for asylum in other member states (A. Vitorino).

Following the arrival of illegal migrants on Italy's shores in 2011, the authorities allowed the migrants to depart towards other EU member states, triggering a revival of border controls by the French and thus fostering a climate of mutual mistrust among EU member states. António Vitorino pointed out that the Schengen area should not be taken as a given. A European migration policy is needed to protect both the internal market and freedom of movement. To avoid certain abuses, a common migration policy is required, along with strengthened border control (C. Balleix).

António Vitorino also stressed that a certain confusion often arises on the part of grass-roots opinion between freedom of movement and immigration policy. There are instances of the misuse of freedom of movement when individuals without sufficient means to guarantee their livelihood become a burden for their host country's social security system. But these individual instances are insufficient to justify the reduction in freedom of movement among member countries that David Cameron is calling for (A. Vitorino). There is a danger that third country nationals emigrating towards the EU may have a negative impact on freedom of movement within the EU.

3. Strengthening powers of attraction and security

The three speakers agreed on the need to boost synergies between the internal and external aspects of migration policy. In the view of António Vitorino, it is necessary to ensure that dialogue with third countries does not crystallise over security issues but extends to cover every aspect of a comprehensive approach to immigration, including the struggle against human trafficking, the promotion of

asylum systems in third countries and, last but not least, support for development in third countries (in the case of “failed states”). Third countries must be offered negotiation packages on the basis of the “more for more” principle.

António Vitorino stressed the fact that our policies’ success is going to depend on the relationship we have with third countries. But as things stand today, the instability affecting numerous neighbouring countries does not offer us the kind of reliable interlocutors we need to negotiate agreements allowing us to achieve either our or their objectives. Thus António Vitorino warned against nurturing any excessive optimism with regard to cooperation with third countries. In the wake of the transition phase in the Arab countries and of the crisis in Ukraine, Europe has proven incapable of developing a cooperation policy in the fields of security and defence.

The EU’s relations with third countries are thus of crucial importance in seeking a balance between security and the power of attraction. As Corinne Balleix pointed out, the challenge facing migration policy in the future will be to organise and to regulate legal immigration so as to curb illegal migrant influxes and their attendant risks. Yves Pascouau argued that the EU currently has a security package (comprising border management, visa policy and illegal immigration) which has developed massively and is now unbalanced by comparison with legal immigration, which is far weaker or in any event far less concentrated.

There are numerous challenges. The Union’s population is ageing and it is expected to decline between now and 2060, which requires a rationalisation of legal immigration in economic terms. In the view of António Vitorino, we must be able to attract not only highly qualified and skilled labour by espousing a more proactive university and research policy, but also a substantial labour force for caring for individuals with mobility issues. Family reunions fall within the EU’s jurisdiction while economic immigration falls within the jurisdiction of the individual member states, so that what can be done without being in breach of the treaties is to coordinate admission policies for legal immigrants. (A. Vitorino)

And finally, António Vitorino voiced the belief that it is dangerous for the debate on immigration to be hijacked by two visions which, if taken together, are

harmful for a rational, pragmatic debate reflecting our common values. On the one hand, there is the issue of people’s real perception of immigration, with opinion polls showing that they generally have a distorted view of the number of immigrants present in their area. And on the other, there are the demographic forecasts which show that the EU is going to need some 50 million immigrants between now and 2050 if it is to make up for its ageing population, a figure which is absolutely realistic. On the one hand, people say that there is too much immigration, while on the other, they argue that there is not enough. So according to Yves Pascouau, it is necessary to further mobilise civil society, the labour unions and businessmen in order to conduct a proper assessment of the labour markets’ capacity for absorption in the individual member states.



4. Strategic guidelines in the post-Stockholm agenda

António Vitorino argued that at a time when anti-immigration forces are gaining ground almost everywhere in Europe, it is important for the post-Stockholm Council’s conclusions to reaffirm the principles and values of humanitarian goals. The short text of the document leaves room for manoeuvre in order to clarify the political decisions. (A. Vitorino)

Yves Pascouau, for his part, was in two minds. The Council’s conclusions do contain aspects that are worth debating and publishing, but at the same time, the strategic guidelines do not look far enough into the future. The Council failed to make full use of the opportunity offered it by the Treaty of Lisbon to make strategic recommendations over ten or fifteen years, making instead with a traditional five-year plan format for the next five years.

Certain aspects of the conclusions hint at substantial progress on the Commission's part with regard to the notion that legal immigration, international protection and illegal immigration are all inter-linked aspects of migration policy. But according to Yves Pascouau, the European Council, for its part, considers that migration policy is only influenced by international clashes and by European demographics. It has failed to consider that other important factors such as the explosion of the middle class, an increasingly urban society or global digitalisation, mean that people are increasingly mobile. The European Council failed to take these issues on board to a sufficient degree, despite the fact that they have an impact on the way in which migration policies should be handled.

Corinne Balleix analysed the progress made in the post-Stockholm agenda. Where border control is concerned, the new strategic programme proposes to develop smart borders ("smart border package") using modern technologies in an effort to make border control simpler and more effective. The aim is thus to facilitate legal entry and registration for people in good faith but also to allow them to enter and exit the EU; it is also a question of providing information regarding overstayers (who remain on European soil after their visa has expired). The European Council also wishes to strengthen FRONTEX's operational action, in conjunction with

the EUROSUR monitoring system which became operational in December 2013. And lastly, the idea of a European border guard corps was floated once again, with France's support.

Corinne Balleix stressed that where solidarity in the sphere of the right to asylum is concerned, it is basically a matter of strengthening existing legislation, and above all, of setting up a European asylum system to issue asylum seekers with procedural safeguards and to make it possible to develop a standard statute for protected individuals. The European Asylum Support Office EASO must contribute both to the standardisation of the way in which member states handle applications for asylum and to the convergence of European asylum policies. Yet a number of issues were not debated, such as the potential place of common defence policy tools in the Union's migration policy, the establishment of European asylum application centres outside the EU itself and a renewal of the Dublin agreement.

Given that the Council has mapped out the strategic guidelines for Europe's migration policy over the next few years, it is now up to the new Commission to implement that strategy's operational details. According to Yves Pascouau, a new, dynamic European Commission could well cause things to change.

1. Corinne Balleix, "Border control and the right of asylum: Where is the EU heading?", *Policy Paper No. 114*, Notre Europe – Jacques Delors Institute, June 2014.

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